

JOHN OAKASON
BEARD OIL COMPANY

IBLA 74-241

74-242

Decided March 18, 1975

74-243

74-244

Appeals from decisions of Utah State Office, Bureau of Land Management, rejecting oil and gas lease offers. 1/

Affirmed.

1. Oil and Gas Leases: Discretion to Lease -- Oil and Gas Leases: Lands Subject to -- Wild and Scenic Rivers Act

Oil and gas lease offers embracing lands within an area under consideration as a potential wild and scenic river area under sec. 5(d) of the Wild and Scenic Rivers Act, 16 U.S.C. § 1276(d) (1970), or within adjacent areas having special resource values which might be damaged by oil and gas leasing may be properly rejected in the exercise of the Secretary's discretion in leasing.

2. Oil and Gas Leases: Generally -- Oil and Gas Leases: Noncompetitive Leases

When noncompetitive oil and gas lease offers are rejected by the Secretary of the Interior in the exercise of his discretion, the offers will not be held in suspense pending a future determination that the lands described in the offers should be leased.

1/ See Appendix A.

APPEARANCES: Gerald E. Nielson, Esq., Yano & Nielson, Salt Lake City, Utah, for appellant Oakason; C. S. Dodson, Esq., Oklahoma City, Oklahoma, for appellant Beard Oil Company.

OPINION BY ADMINISTRATIVE JUDGE RITVO

John Oakason and the Beard Oil Company have each appealed from decisions of the Utah State Office, Bureau of Land Management, rejecting either totally or in part their respective oil and gas offers to lease certain lands in San Juan County and Grand County, Utah.

The State Office rejected appellants' offers for the stated reason that "an environmental analysis has been made and it has been determined that oil and gas leasing is not compatible with other resource values of the land."

The Bureau of Land Management has identified approximately 83 miles of the Colorado River from the Colorado state line to Canyonlands National Park as having potential as a wild, scenic or recreational river under section 5(d) of the Wild and Scenic Rivers Act, 16 U.S.C. § 1276(d) (1970). This portion of the Colorado River has recently been added to the list of rivers to be studied for inclusion within the wild and scenic rivers system. The Bureau determined that any disturbance of the river environment or the adjacent landscape or any encumbrances on the land could irreversibly damage significant resources and degrade the quality of the river. This could preclude its designation as a wild, scenic or recreational river, and would not be in the best public interest. Accordingly, the Colorado River Corridor area was designated "No Lease." All of appellants' lease applications are for land within the Colorado River Corridor, and were thus rejected.

On appeal, appellants point out that oil and gas exploration and development have been conducted in the general area of these lease offers and to stop exploration and production of oil and gas during a period when the United States is suffering from an energy crisis is contrary to the public interest. Generally, appellants challenge the Secretary and his delegates' right to refuse to issue oil and gas leases under these circumstances. Appellant Oakason also requests that the rejection of his offer be withdrawn and that final decision on such offer be withheld pending the outcome of the Bureau's study of the uses of the lands in the area of the lease offer.

After the appeals had been filed the lands as to which the offers had been rejected were re-examined. Each of the offers was subjected to an individual analysis and the primary resource values documented.

In a letter to each appellant dated March 20, 1974, the State Director stated:

This is to inform you of specific reasons for our rejection of your offer[s] for lease of oil and gas.

Through the process of our planning and inventory system approximately 88% of the lands we administer in Utah have been categorized as open to oil and gas leasing (see attached sheet) [infra]. Many of these areas have unique and valuable surface resources that can be protected if activities are controlled with special stipulations, which may include no surface occupancy. Approximately 12% of the land we administer has been categorized as being suspended from oil and gas leasing. These areas have surface values that could be irreversibly damaged if oil and gas activities were allowed. Leasing in these areas is suspended until planning and/or special studies are completed. The decisions that are made concerning oil and gas must consider all resources. As new resource information is brought to light, these categories are reconsidered. The specific values that have been identified in the areas of your leases are:

1. Primitive values in specific areas along and adjacent to the Colorado River.
2. Potential designation of the Colorado River and its corridor under the "Wild and Scenic Rivers Act" of 1968.
3. Significant archeological sites.
4. Significant fossil and dinosaur tracks.
5. Scenery that has been categorized as "exceptional," including arches, spires, fins, knobs and buttes in the desert red rock scenery typical of the Moab area.
6. Potential for introduction of desert bighorn sheep.

* * * * *

[Attached sheet]

UTAH
BUREAU OF LAND MANAGEMENT

Oil and Gas Leasing Program
January 11, 1974

Open Category 10,500,000 acres 45%

These areas are leased subject to standard stipulations which provide for the following before drilling operations begin: submission of an operation and improvements pertaining to the location of drilling pads, types of structures and improvements, types of vehicles, etc. This plan must be approved in writing by the U.S. Geological Survey and the Bureau of Land Management.

Open subject to special stipulations 7,800,000 acres 33%

Leasing in this category is subject to additional stipulations that pertain to such things as construction of roads, watershed protection, specific wildlife habitat areas, wild horse and burro areas, general archeological or historical areas, etc.

Open areas subject to no surface occupancy stipulation 2,300,000 acres 10%

These areas have surface values where oil and gas operations would not be compatible with the surface resources. These areas have special values such as camping and picnic areas, research areas, scenic areas, R&PP patents and leases, critical wildlife habitat, significant historical, archeological and paleontological areas, etc. Exploratory drilling is by whipstock methods.

Suspended or no lease category 2,700,000 acres 12%

These are areas where oil and gas leasing is suspended pending further planning or special studies. At that time the recommendations are subject to change. Included are potential and existing wild and scenic river corridors, primitive areas, natural areas, Glen Canyon National Recreation Area, etc.

There are 14,698 existing leases encompassing 12,980,010 acres of national resource land. These leases presently occur in all four categories.

As to lands abutting the Colorado River or within 1/4 mile of its banks these appeals are virtually identical to Sheridan L. McGarry, 14 IBLA 23 (1973), and Dean W. Rowell, 13 IBLA 249 (1973), recently decided by this Board, in which the State Office decisions were affirmed. In Rowell and McGarry the Board stated:

Section 17 of the Mineral Leasing Act of 1920, as amended, 30 U.S.C. § 226 (1970), vests the Secretary of the Interior " * * * with the discretion to refuse to issue any lease at all on a given tract." Udall v. Tallman, 380 U.S. 1, 4 (1965), rehearing denied, 380 U.S. 989 (1965). The Secretary has the discretion to refuse to issue a lease even where lands were inadvertently listed as available for leasing, Signal Oil and Gas Co., 8 IBLA 150 (1972). That lands are available for leasing, however, does not necessitate their leasing.

It is conceivable that this proposal for a wild and scenic river area may * * * die aborning. However, while the lands are under consideration by the State Director for possible inclusion under the Wild and Scenic Rivers Act of 1968, 16 U.S.C. §§ 1271-1287 (1970), the Secretary of the Interior, through his delegates, has the discretion to refrain from leasing the tracts in question. Section 5 of the Wild and Scenic Rivers Act, 16 U.S.C. § 1276(d) (1970), mandates consideration by federal agencies of potential national wild, scenic and recreation river area. Similarly, Section 4 of the Act, 16 U.S.C. § 1275(a), prescribes that the Secretary of the Interior shall from time to time submit proposals to the Congress and the President for additions to the national wild and scenic rivers system.

Therefore it was proper to reject these offers insofar as they cover lands in the bed of the river or within 1/4 mile of its banks. As to the somewhat more remote lands, the determination not to lease lies equally within the discretionary authority of the Secretary or his delegate.

Furthermore, appellant Oakason's request to withhold final decision on his offer is denied. We adhere to the Departmental policy which has been, as to applications for mineral leases and other interests in public lands, to reject all applications for lands which are not available because the Secretary in the exercise of his discretion has determined not to issue leases thereon. Martin Exploration, Inc., 11 IBLA 292, 293 (1973); Georgette B. Lee, 10 IBLA 23, 26 (1973); J. G. Hatheway, 68 I.D. 48, 51 (1961).

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decisions appealed from are affirmed.

Martin Ritvo
Administrative Judge

We concur:

Frederick Fishman
Administrative Judge

Anne Poindexter Lewis
Administrative Judge

APPENDIX AIBLA 74-241JOHN OAKASON

U-18909

BLM Decision: December 20, 1973

IBLA 74-242BEARD OIL COMPANY

U-23827

BLM Decision: December 18, 1973

U-23807

BLM Decision: December 20, 1973

IBLA 74-243BEARD OIL COMPANY

U-23821

BLM Decision: November 21, 1973

U-23877

BLM Decision: November 21, 1973

IBLA 74-244BEARD OIL COMPANY

U-23803

BLM Decision: November 28, 1973

U-23822

BLM Decision: November 28, 1973

U-23865

BLM Decision: November 29, 1973

U-23866

BLM Decision: November 28, 1973

U-23879

BLM Decision: November 29, 1973

